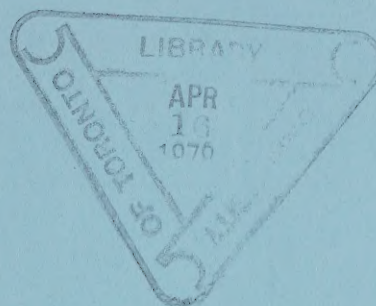


MINISTRY OF INTERGOVERNMENTAL AFFAIRS

LOCAL GOVERNMENT DIVISION

BULLETIN NO. 19

SUMMARY OF 1978 LEGISLATION
RESPECTING REMUNERATION AND EXPENSES



Hon. Thomas L. Wells
Minister


D. W. Stevenson
Deputy Minister

February 1979

These bulletins are intended to be made
available to municipal councillors and
senior municipal staff.

TABLE OF CONTENTS

	<u>PAGE</u>
INTRODUCTION	1
REMUNERATION OF COUNCIL MEMBERS	3
EXPENSES	4
Authority of Municipal Councils	4
Timing	5
LOCAL BOARDS AND OTHER BODIES	6
Council Appointees	6
Chairmen and Vice-Chairmen	6
Members Not Appointed By Councils	7
Shared Appointments	8
Conservation Authorities in 1979	8
TREASURER'S STATEMENT	9



Digitized by the Internet Archive
in 2024 with funding from
University of Toronto

<https://archive.org/details/31761120597869>

INTRODUCTION

Bulletin No. 15 in this series, entitled "An Act to Amend The Municipal Act (Bill 80) -- Remuneration and Expenses" was issued in October 1978. It was intended to draw the attention of members and staffs of local authorities to the implications of some of the amendments to The Municipal Act that were effected by The Municipal Amendment Act, 1978 (No. 2) (Bill 80), which came into force on 20 June 1978. These amendments affect the law governing the remuneration and expenses of members and staff of municipalities and other local authorities.

Late in 1978, after Bulletin No. 15 was issued, another act was passed that modified some of the amendments made earlier in the year and also established some new provisions concerning remuneration and expenses. This latter statute is The Municipal Amendment Act, 1978 (No. 3) (Bill 195). This present bulletin supplements Bulletin No. 15 and is intended to bring local authorities up to date on the legislation governing remuneration and expenses.

While some of the relevant provisions of The Municipal Amendment Act, 1978 (No. 3) are formal amendments to The Municipal Act, others are not.

These latter are known as "substantive provisions". While these have the same force in law as amendments to The Municipal Act, they are operative for only a limited period of time and hence need not be carried forward indefinitely in the Act itself. Their purpose is to facilitate the introduction of the new provisions of The Municipal Act by the two statutes referred to above. Because technically they are not amendments to The Municipal Act, they will not be incorporated in office consolidations of the Act, unless possibly as parenthetical notes. These substantive provisions are identified as such where they are mentioned in this bulletin.

A new office consolidation of The Municipal Act, dated September 1978, has been issued. Copies may be obtained from the Publications Centre (see back page of this bulletin) at \$6.00 each. Please note; this consolidation was prepared before The Municipal Amendment Act, 1978 (No. 3) was enacted, and hence none of the amendments made by that Act are incorporated in it, nor does it carry any mention of the substantive provisions referred to in the previous paragraph.

In general, the 1978 amendments to The Municipal Act authorize municipal councils

- to determine and pay the remuneration of their members;
- to determine and pay the remuneration of council members and others who are council appointees to, or ex officio members of, local boards or other bodies;
- to determine and pay the expenses, or portions thereof, of their members and of municipal staffs that are incurred while conducting municipal business;
- to determine and pay the expenses, or portions thereof, of council members and others who are council appointees to, or ex officio members of, local boards or other bodies.

These recent amendments authorize local boards to pay their chairmen and vice-chairmen and to pay the remuneration and expenses of those board members not appointed by a municipal council.

Some of the new and amended statutory provisions relating to remuneration and expenses are quoted and discussed in the following pages. For accurate reference, however, recourse should be had to the official statutes. Also, members and staff of municipalities and other local authorities should consult a solicitor about any problems encountered in interpreting or applying the new provisions. Staffs of the field offices of this Ministry are also available to offer advice on operating under the new legislation. Addresses and telephone numbers of the field offices are given at the end of this bulletin.

REMUNERATION OF COUNCIL MEMBERS

Section 388 of The Municipal Act now states

"Notwithstanding the provisions of any general or special Act, the council of a municipality may pass by-laws for paying remuneration to the members of council, and such remuneration may be determined in any manner that council considers advisable." Further, "The remuneration to be paid may be determined in different manners and be of different amounts for different members of council."

A municipal council, therefore, may decide both the basis on which its members should be paid and the amount to be paid. Council members might be paid on an annual basis, for instance, or an amount for each meeting attended, or a combination of both. Additional responsibilities and contributions of council members may also be recognized; for example, a council might want to establish additional remuneration for committee work. In summary, a council may establish, by by-law, the amount of remuneration to be paid to each of its members based on whatever criteria it feels is appropriate.

EXPENSES

Authority of Municipal Councils

Section 389 empowers a municipal council to *"....provide by by-law for paying in whole or in part such expenses of the members of council and of the officers and servants of the municipality as are actually incurred as a result of their acting either within or outside the municipality in their capacity as members of council or officers of the municipal corporation or as officers or servants of the municipality and as are authorized by the by-law."* (Section 389(1))

The by-law may *"....set maximum amounts or rates that may be paid in respect of any expense for which payment is authorized by the by-law."* (Section 389(2))

An additional subsection specifies that a municipality may establish expense allowances for such items as meals and travel in lieu of the payment for actual expenses. For example, a municipality would be able to pay members of council and its employees a travel allowance based on the distance travelled (22¢ per mile, say, or 13¢ per kilometre) rather than on the basis of the actual expense. That new subsection reads as follows:

"A by-law passed under subsection 1 may provide for the payment of a specified amount or amounts calculated according to a specified rate in lieu of the amount of actual expenses incurred in respect of items of expenditure specified in the by-law where the specified amounts or rates, in the opinion of the council, reasonably reflect the actual expenses that would be incurred." (Section 389(3))

The same authority is conferred upon municipal councils as regards the expenses of those members or other persons appointed by council to serve as members of local boards or other bodies, excluding from "other body" a county, or a regional, district or metropolitan municipality or the County of Oxford. (Section 389b as re-enacted by The Municipal Amendment Act, 1978 (No. 3) (Bill 195))

Timing

These municipal responsibilities for determining the way in which both the remuneration and the expenses of council members, municipal employees, and members of local boards and other bodies are to be made are conferred as of June 20, 1978. Since then, some municipalities and local boards may have continued to pay remuneration, expenses and allowances in accordance with the law as it stood prior to June 20, 1978, when The Municipal Amendment Act, 1978 (No. 2) (Bill 80) came into force. Section 13(1) of The Municipal Amendment Act, 1978 (No. 3) (Bill 195) is a substantive provision that deems that such payments were not improperly made.

Further, that section allows municipalities and local boards to continue their former practices for paying remuneration, expenses and allowances until December 31, 1979, providing time for the many alternative ways of meeting their new responsibilities to be considered and debated.

Section 13(1) of The Municipal Amendment Act, 1978 (No. 3) states, in full,

"Notwithstanding this Act, or The Municipal Amendment Act, 1978, being chapter 32, for the period commencing on the 20th day of June, 1978, and ending on the 31st day of December, 1979, any rate, remuneration, expense or allowance paid to a member of the council of a municipality or a local board thereof or to an officer or servant of a municipality or a local board thereof in accordance with the provisions of The Municipal Act or any other general or special Act, as such Acts existed on the 19th day of June, 1978, shall be deemed not to be improperly paid by reason only of the fact that the payment was not made in accordance with the provisions of The Municipal Act, as amended by this Act, or The Municipal Amendment Act, 1978, being chapter 32."

LOCAL BOARDS AND OTHER BODIES

Council Appointees

A municipal council may now also determine and pay the remuneration of those persons, whether they be council members or not, that it appoints to serve as a member of a local board or any other body. A council has the same authority in this area as it does in paying its own members; that is, the basis of the remuneration is whatever the council decides is advisable.

Section 389a(1) of The Municipal Act states

"Notwithstanding the provisions of any general or special Act, the council of a municipality may pass by-laws for paying remuneration to a member of council or other person who has been appointed by the council to serve as a member of a local board, as defined in The Municipal Affairs Act, or of any other body, in respect of his services as a member of that board, or other body, and to a member of council who serves pursuant to this or any other general or special Act, as an ex officio member of such a local board or other body, and such remuneration may be determined in any manner that council deems advisable."

Section 389a(2) states that a county, or a regional, district or metropolitan municipality or the County of Oxford should not be interpreted as "other body" in the subsection quoted above. Neither does "local board" or "other body" include a public utilities commission or hydro-electric commission. (Section 389a(4))

Chairmen and Vice-Chairmen

Local boards are prohibited (by section 389c(1)) from making additional remuneration or expense payments to those appointees that a municipal council may be paying. Local boards are empowered, however, to provide remuneration

and expenses to their chairmen and vice-chairmen over and above what may be received from the municipality that appointed them. Section 389c(2) states

"Notwithstanding subsection 1, where a person mentioned in subsection 1 of section 389a or subsection 1 of section 389e is the chairman or vice-chairman of a local board, the board may provide for the payment to such chairman or vice-chairman of such remuneration and expenses as may be established by the council of the municipality, or, where more than one municipality is concerned, as established by the board, and such remuneration or expenses may be in addition to the remuneration or expenses paid to such person under any other section of this Act or under any other general or special Act in respect of his membership on the board."

(The responsibility of a municipal council to determine the amount and basis of payment to some chairmen and vice-chairmen of local boards should be noted in that section.)

Members Not Appointed By Councils

Local boards may pay the remuneration and expenses of those members who are not appointed by municipal councils. The amount and basis of the payments is to be established by the council of the municipality or, where more than one municipality is concerned, by the council designated by the Ministry of Intergovernmental Affairs. (Section 391)

Excluded from that are the members of school boards, hydro-electric commissions, public utilities commissions, the trustees of police villages, and the members of boards of trustees of police villages; those members and trustees will continue to be paid in the same manner as they were prior to these amendments to The Municipal Act. (Section 391(2))

Shared Appointments

Though there are relatively few cases where this applies, two or more municipalities may share the responsibility for determining and paying the remuneration and expenses of some members of local boards. Section 389e(1) states

"Where two or more municipalities are to be considered as one municipality for the purpose of appointing one or more persons as a member of a local board or other body, those municipalities may by agreement provide for determining and paying the remuneration and expenses of such persons and for apportioning the costs of the payment among each of them."

Conservation Authorities in 1979

Section 13(2) of The Municipal Amendment Act, 1978 (No. 3) (Bill 195) is a substantive provision requiring that each conservation authority shall determine, by February 15, 1979, whether or not it will be liable for the payment of municipal appointees for the year 1979.

"Notwithstanding this Act or The Municipal Amendment Act, 1978, being chapter 32, a conservation authority shall, for the year 1979, continue to be responsible for the payment of the remuneration and expenses of the members of the authority appointed by its participating municipalities, unless prior to the 15th day of February, 1979 the conservation authority passes a resolution transferring such responsibility to the participating municipalities."

TREASURER'S STATEMENT

As was discussed in Bulletin No. 15, the new section 389d(1) requires the treasurer of every municipality to prepare and submit to council, on or before February 28 each year, an itemized statement of the remuneration and expenses paid by the municipality to each member of council and to council appointees to local boards or other bodies.

Section 13(3) of The Municipal Amendment Act, 1978 (No. 3) (Bill 195) is a substantive provision that establishes a transition period during which procedures for the preparation of the statement may be developed and implemented.

"Notwithstanding section 389d of The Municipal Act, as enacted by The Municipal Amendment Act, 1978, being chapter 32, that section shall be deemed not to require the filing of a statement in respect of remuneration and expenses paid for the years 1978 and 1979."

In effect, therefore, the first treasurers' statements will not be required until February 28, 1981.

This bulletin was prepared in the:

Municipal Administration Branch
Ministry of Intergovernmental Affairs
56 Wellesley Street West
Toronto, Ontario
M7A 1Y7 Tel. 416-965-3514

Previous bulletins issued in this series:

No.1	Highlights of The Municipal Elections Act, 1977	Jan. 1978
No.2	Conflict of Interest in Municipal Government	Mar. 1978
No.3	Amendments to The Municipal Elections Act, 1977	Apr. 1978
No.4	Council Agenda and Minutes -- Committee Agenda and Reports	Apr. 1978
No.5	An Alphabetical Filing System Suitable for a Small Municipality	May 1978
No.6	Bargaining Information	May 1978
No.7	Drafting Municipal By-laws	May 1978
No.8	Municipal Insurance	May 1978
No.9	The Municipality and the Law	June 1978
No.10	Labour Relations -- The Organizing Process	June 1978
No.11	Procedure By-law	July 1978
No.12	Dismissal	July 1978
No.13	Labour Relations -- Components of a Collective Agreement	Aug. 1978
No.14	The Head of Council	Oct. 1978
No.15	An Act to Amend The Municipal Act (Bill 80) Remuneration and Expenses	Oct. 1978
No.16	Municipal Staff Reports	Jan. 1979
No.17	Council Committees (being printed)	Jan. 1979
No.18	Liability Protection (being printed)	Feb. 1979

Copies of all of the bulletins in this series are available at \$0.50 each, prepaid, from:

Publications Centre
880 Bay Street, 5th Floor
Toronto, Ontario
M7A 1N8

(Please make cheques payable to the Treasurer of Ontario.)

A series of Financial Procedures Bulletins is being issued by the Municipal Budgets and Accounts Branch. Copies are available at \$1.00 each from the Publications Centre. Titles now available are:

F.1	Cash Management in Municipalities
F.2	Bank Reconciliation Procedure for Municipalities.

For additional information on this subject, get in touch with any of the field officers of the Local Government Division. They are located at these addresses:

BRANTFORD

172 Dalhousie St.
Brantford, Ontario
N3T 2J7
(519) 756-0360

ORILLIA

15B Matchedash St. N.
Orillia, Ontario
L3V 4T4
(705) 325-6144

GUELPH

30 Edinburgh Road N.
Guelph, Ontario
N1H 7J1
(519) 836-2531

OSHAWA

74 Simcoe St. S.
P.O. Box 2216
Oshawa, Ontario
L1H 7V5
(416) 571-1515

KINGSTON

1055 Princess St.
Kingston, Ontario
K7L 5T3
(613) 546-5565

OTTAWA

244 Rideau St.
Ottawa, Ontario
K1N 5Y3
(613) 232-9446

LONDON

495 Richmond St.
London, Ontario
N6A 5A9
(519) 438-7255

SUDBURY

1349 LaSalle Blvd.
Sudbury, Ontario
P3A 1Z2
(705) 566-0901

NORTH BAY

1354 Gorman St.
North Bay, Ontario
P1B 2Y3
(705) 476-4300

THUNDER BAY

435 James St. S.
P.O. Box 5000
Thunder Bay, Ontario
P7C 5G6
(807) 475-1621

